IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 17TH OCTOBER 2006 / 25TH ASWINA 1928

Bail Appl..No. 6046 of 2006

CC.1291/2005 of J.M.F.C.,KARUNAGAPPALLY
CRIME NO.102/CR/KLM/04, CBCID, KOLLAM

.....

PETITIONER

ABDUL BASHEER @ HASSAN @ KALA BASHEER,
S/O MUHAMMED MUSTHAPHA,
THACHAMTHUNDIL VEEDU, KURUMANGALAM VILLAGE,
KOZHIKODE TALUM, FROM EDATHATTUVEEDU,
THIRUVANANTHAPURAM CORPORATION,
TC/53/670, MANAKULADICHA MANGALA DESAM,
PONNUMANGALAM. KARAYKKAMANDAPAM,
NEMAM VILLAGE, TRIVANDRUM

BY ADV. SRI.T.A.UNNIKRISHNAN
SRI.K.SATHEESH KUMAR
SMT.RESHMI POULOSE

RESPONDENTS:

THE STATE OF KERALA REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/10/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A. 6046/2006

DATED THIS THE 17TH DAY OF OCTOBER, 2006

O R D E R

The petitioner is accused in C.C.No.1291/2005 on the file of the Judicial Magistrate of First Class-I, Karunagappally, for the offence punishable under Section 420 IPC. The petitioner was arrested in crime No.170/2006 of Vattiyoorkavu police station, Thiruvananthapuram, on 30.7.2006. As C.C.No.1291/2005 had originated basing on crime No.102/CR/KLM/04 of CBCID, Kollam, the arrest of the petitioner was recorded by the Investigating Officer in that crime on 22.9.2006. The petitioner is before this Court, for an order under Section 439 Cr.P.C, in CBCID crime at Kollam, on the ground that he is already on bail in crime No.170/2006 of Vattiyoorkavu Police Station.

2. The learned counsel for the petitioner submitted that the petitioner was only a middle man. He received money and arranged visa and travel documents,

with the money that had been received through some other persons abroad. The petitioner had already sold out his property and arranged re-payment to few persons. The petitioner has two daughters of which, one alone is married and other girl is with him. His wife had divorced him after the mishap that occurred to the petitioner. He is a chronic diabetic patient, being treated for the last six years. The petitioner is not able to immediately meet the demand of the complainant. Therefore, prayed that he may be granted bail.

3. The learned Public Prosecutor, on the other hand, submitted that the investigation is complete. The petitioner had cheated 14 persons, though only four cases had been registered so far. If the amount is not paid back, the complainant would be put into difficulties. The sickness of the petitioner would be attended to by the jail authorities, as and when any such situation arises, as the health of the petitioner is now reported to be normal. The prosecution is prepared to immediately start the trial and complete it at the earliest and therefore, opposed the granting of the bail to the petitioner.

4. Without entering into any discussion on the merit of the matter, as the investigation in this case is complete and the prosecution is prepared to complete the trial, I direct the prosecution to immediately take steps to produce the witnesses, as per the schedule, before the Court below and the learned Magistrate shall ensure that the case is taken up with priority and finally dispose of as early as possible, in any case within two months from today, as the petitioner is in jail.

5. I also direct the jail authorities to give all the required medical attendance to the petitioner for continuing his treatment for diabetics, which he is alleged to be suffering.

6. Immediately send the copy of the order to the Court below.

The application is disposed of as above.

J.M.JAMES
JUDGE

mrcs

J.M. JAMES, J.

B.A. No.6046 of 2006

Dated this the 19th December, 2006.

O R D E R

The request of the Judicial Magistrate of First Class, Karunagappally, for further extension of time of three months was considered. The bail was denied to the accused, after considering the submissions made by the prosecution. The trial was directed to be expedited and prosecution undertook that they would produce all the witnesses.

2. The request of the learned Magistrate dated 24.11.2006 is that he is not able to dispose of the case, because of the pressure of work and pendency of the cases in his Court. That is not in any way the ground for not disposing of the matter, when a specific direction is given by this Court. Therefore, I express my displeasure on the conduct of the learned Magistrate. In order to avoid any adverse remark on his judicial career, I refrain from making further observations. However, I

grant an extension of time requested for by the learned Magistrate.

3. In the above facts situation, the accused, whose bail had been denied, as per the order of this Court dated 17.10.2006, shall approach the Court below with an application for bail, in that event, the Magistrate shall allow him to be on bail, imposing such conditions, as are deemed necessary.

J.M. JAMES,
JUDGE.

mrcs.